

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA, :
: **ORDER**
:
- against - : 21-cr-371 (BMC)
:
:
AL MALIK ALSAHHI, *et al.*, :
:
Defendants. :
:
----- X

COGAN, District Judge.

Two of the Government's [266/267, 271/272] motions *in limine* are resolved as follows.

1. The Government's [266/267] motion *in limine* to preclude testimony by defense expert witness Daniel N. Hoffman is denied as moot. Defendants have now provided the Government with a summary of their expert's anticipated testimony, and the Government has not objected to the completeness or timeliness of this disclosure.

2. The Government's [271/272] request to exclude certain evidence as inadmissible hearsay is denied in part and granted in part.¹

a. BX 170 and BX 183 are admissible for the non-hearsay purpose of demonstrating the nature of the relationship between Barrack and Al Malik.

¹ The Court resolved other issues raised in the motion related to defendants' use of certain exhibits on cross-examination in an oral ruling on October 3, 2022.

- b. BX 180 is admissible for the non-hearsay purpose of showing that Gibbs forwarded the Italian Prime Minister's contact information to then President-elect Trump's secretary.
- c. GE 22 is admissible to show Grimes' state of mind as an "endlessly loyal servant" of Barrack.
- d. GE 28 and GE 29 are admissible as business records.
- e. GE 61 is admissible so long as defendants establish authenticity.
- f. GE 75 is admissible because Grimes' command to "send along – per TJB" is not hearsay. See Cameron v. New York City Dep't of Educ., No. 15-cv-9900, 2018 WL 1027710, at *5 (S.D.N.Y. Feb. 21, 2018) ("In general, commands are not hearsay unless they are used to prove the truth of an implicit assertion.").
- g. GE 92A and GE 92B are admissible to show the state of mind of the declarant in planning the referenced dinner.
- h. GE 104 is admissible, if not already admitted, to show the state of mind of defendants and the relationship between them.
- i. GE 134, GE 136, and GE 137 are admissible, if not already admitted, as non-hearsay commands and to show the nature of the relationship between defendants.

SO ORDERED.

Digitally signed by
Brian M. Cogan


Dated: Brooklyn, New York
October 7, 2022